

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 22344 of 2003

Between:

M/s. Jayalakshmi Cotton Corporation Takkellapadu,
Guntur District, rep by its Managing Partner Devarasetti
Venkata Apparao, S/o. Ankaiah, age : 36 years.

..... PETITIONER

AND

- 1 The Secretary, Law Department, Govt. of A.P. Secretariat
Buildings, Saifabad, Hyderabad.
- 2 The Principal Secretary of Revenue Govt. of A.P.
Secretariat Buildings, Saifabad, Hyderabad.
- 3 The Asst. Commercial Tax Officer (Int.) Patnam
Bazaar Circle, Guntur.

..RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or Direction more particularly in the Writ of Mandamus declaring the provisions contained in Section-32 of A.P. General Sales Tax Act, 1957 as inapplicable in relation to the offences identified U/s-30(1)(c) and Section-6\30(3) and (b) of the APGST Act, 1957 as the said provision of the Act is ultravires of Section-30 in as much as the exercise of the powers in Section-32 for offences identified U/s-30 will be in usurpation of jurisdiction conferred on a Court of first class Magistrate and therefore Section-32 is redundant or alternately to read down it's application in respect of

offences other than those that are enumerated in Section-30 and consequently set aside the proceedings of the 3rd respondent herein O.R.No. 40/03-04 dated 13-9-2003 as illegal, arbitrary without jurisdiction and without authority of law as also in violation of the principles of natural justice, apart from being in contravention of the judgments of this Hon'ble Court in 26 APSTJ Pg.91 APSTJ PG. 135.

Counsel for the Petitioner: MR.M.V.J.K.KUMAR, Advocate

Counsel for the Respondents 1 and 2: THE GP FOR REVENUE

Counsel for the Respondent No.3: THE SPECIAL GP FOR TAXES

The Court made the following:

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ORDER: (Per BRSR,J)

Concededly, the subject matter that arises for consideration in this writ petition is squarely covered by the judgment rendered by this Court in ***AMBICA LAMP HOUSE, RAJAHMUNDRY v . COMMERCIAL TAX OFFICER (INT)-I ENFORCEMENT, HYDERABAD.***

Following the said decision, this writ petition is also disposed of in terms of the said judgment.

However, it is made clear that the evidence or material, if any, gathered by the Commercial Tax Department during the course of investigation, can always be utilized for proceeding further in the matter in accordance with the provisions of the A.P. General Sales Tax Act and the Rules framed thereunder.

B. SUDERSHAN REDDY, J.

Date: 27/04/2005

C.V. RAMULU, J.

GS/GRR

To

1 The Secretary, Law Department, Govt. of A.P. Secretariat Buildings, Saifabad, Hyderabad.

2 The Principal Secretary of Revenue Govt. of A.P. Secretariat Buildings, Saifabad, Hyderabad.

3 The Asst. Commercial Tax Officer (Int.) Patnam Bazaar Circle, Guntur.

4 Two CCs to the GP for Revenue, Special G.P. for Taxes, High Court of A.P., Hyderabad (OUT)

5 Two CD Copies.